

SUPREME COURT OF INDIA

Mahesh Chand Bhargawa

Vs.

Union of India

C.A.Nos.11863 with 11864 of 1995

(G. B. Pattanaik and B. N. Agrawal, JJ.)

01.11.2000

ORDER

1.This appeal by the fourty railway staff is directed against the order of the Central Administrative Tribunal (for short "the Tribunal") dated 1st August, 1995 in OA No. 1317/92. These appellants had approached the Tribunal assailing the order of Central Railways dated 30th of October, 1992 by which order the Steam Loco surplus employees who had been working in commercial department on temporary basis, had been directed to be redeployed to the Loco Shed for being absorbed in TRS/TRD Department like other employees of the Steam Loco. The case of the appellants before the Tribunal was that on account of dieselisation and operational changes, Loco Sheds all over the railways were being closed either partially or fully and the surplus staff were to be absorbed by evolving a policy dated 27th of March, 1991. Under that policy appellants claim that they were entitled to be absorbed in the commerecial organisation once having been posted thereunder and their suitability having been tested and as such the impugned order dated 30th of Oct. 1992 must be struck down.

2. The Tribunal considered the question of absorption of the appellants in the commercial organisation and came to the conclusion that these employees had been posted on temporary basis with the commercial department while still having their lien in the Loco Shed and even drawing

their wages from the Loco Shed and as such they have not acquired any right to be absorbed in the commercial department. With this conclusion the Tribunal having dismissed the application filed, the present appeal has been preferred.

3. Mr. P.N. Misra, the learned senior counsel appearing for the appellants, strenuously contended that there has been a violation of the provisions of the circular inasmuch as instead of taking steps for absorption of the deployed surplus staff in the commercial department, fresh recruitments have been made from outside and, therefore, the impugned order directing repatriation to the Loco Shed and their absorption in TRS must be held to be contrary to the aforesaid circular of the Railway Administration and should be struck down. From the impugned judgment of the Tribunal it does not appear to us that such a case has at all been made out. That apart, if the appellants all along had been born in the cadre of Loco Shed and had been deputed on temporary basis to the commercial department when they were declared surplus, retaining a lien in the Loco Shed and even drawing their salary from the Loco Shed for all practical purposes they had been born all along in the cadre of Loco Shed and therefore, they cannot claim a right of permanent absorption in the commercial department. By the impugned order dated 30th Oct. 1992, the Railway Administration has repatriated them to their parent organisation and has directed absorption in TRS/TRD Department which cannot be held to be violative of any provisions of the circular nor does it affect any rights of the appellants.

4. In course of hearing, Mr. Misra a further urged that on their being absorbed in TRS , they will be held juniors to their erstwhile in the Loco Shed who had gone to TRS and TRD Department earlier and therefore that seniority should be protected. We are not inclined to express any opinion and examine this aspect since no such case has been made out nor does the order dated 30th of Oct. 1992 deal with that aspect of the matter.

5. In the aforesaid premises, we do not find any merits in this appeal which accordingly is dismissed.

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6. There is none for the appellants.

7. Mr. Malhotra, the learned senior counsel appearing for the Railway Administration, contends that this case is identical with the case already disposed of by us. This appeal accordingly stands dismissed.

Appeal dismissed.

